



DEPARTMENT OF THE NAVY
CRANE DIVISION
NAVAL SURFACE WARFARE CENTER
300 HIGHWAY 361
CRANE INDIANA 47522-5001

IN REPLY REFER TO:

5720

00L/18F20.3

August 8, 2018

Mr. Thomas Fox-Brewster
Forbes Magazine
499 Washington Blvd
Jersey City, NJ 07310

Dear Mr. Fox-Brewster:

This letter is in final response to your Freedom of Information Act (FOIA) request received at Naval Surface Warfare Center, (NSWC) Crane Division on June 15, 2018. Your request indicated that you are seeking, "All attachments from emails processed in a previous FOIA request. I've attached the final response letter for that request, which was assigned local Case file Number 2018-F-09. As per that request, I asked for "all internal US Navy Communications about Contract N0016415DJT94. I now request all attachments for all emails that were released to me on May 22, 2018." As a member of the media, no fees were assessed with the processing of this request.

Your request was assigned local Case File Number 2018-F-20. As per the email exchange of June 21, 2018 you indicated that you would accept Clearly Releasable Information.

A thorough search was conducted and fifty (50) documents were located here at NSWC Crane. Fourteen (14) of those documents were withheld in their entirety; Two (2) under FOIA Exemption (b)(5) at 5 U.S.C. § 552(b), under attorney-client privilege, eight (8) under FOIA exemption (b)(5) at 5 U.S.C. § 552(b), under deliberative process as draft documents, and four (4) under Exemption (b)(3) at 10 U.S.C. § 2305(g), under contract proposals. There were also 6 documents deemed to be duplicate in nature. Three (3) documents have been referred to other activities for review and release determination. The remaining twenty-seven (27) documents were redacted consistent with four applicable FOIA Exemptions.

FOIA exemption (b)(3) at 10 U.S.C. § 130 exempts information that is covered by another statute that specifically exempts the information and permits no discretion on the issues. In this case, statute FOIA exemption (b)(3) exempts records from release that are specifically exempted from disclosure by statute 10 U.S.C. § 130. The relevant portion of the statute provides the following:

(a) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any technical data with military or space applications in the possession of, or under the control of, the Department of Defense, if such data may not be

exported lawfully outside the United States without an approval, authorization, or license under the Export Administration Act of 1979 (*50 U.S.C. App. 2401-2420*) or the Arms Export Control Act (*22 U.S.C. 2751 et seq.*)

Access to the document is subject to the provisions of Department of Defense Directive 5230.25, Withholding of Unclassified Technical Data From Public Disclosure. You may wish to refer to that Directive for further information about access to the document by qualified U.S. Contractors. FOIA exemption (b)(3) at 10 U.S.C. § 2305(g) exempts all contractor proposals except a winning proposal that was expressly incorporated into the contract.

FOIA exemptions at 5 U.S.C. § 552(b) are Exemption 4, Exemption 5 and Exemption 6. Exemption (b)(4) protects commercial or financial information received from a private source when disclosure is likely to cause substantial competitive harm to the source. Exemption (b)(5) exempts pre-decisional opinions and recommendations that were not incorporated into a final decision; as well as attorney-client privilege, attorney-work product, and the government's confidential business information. Exemption (b)(6) exempts personal information from release which, if released would result in a clearly unwarranted invasion of personal privacy. Each redaction has been annotated to show the applicable FOIA exemption.

If you have any questions concerning this letter, you may contact Sara Gibson at (812) 854-5297 or by email at sara.gibson@navy.mil.

Sincerely,


SARA A GIBSON
By Direction

Enclosure: 1. Responsive Documents (27)
2. Document Listing